

TOWN OF RED HOOK

*Proposed Amendments to Chapter 143 Entitled ZONING and Chapter 120 entitled SUBDIVISION
OF LAND of the Code of the Town of Red Hook and the Comprehensive Plan.*

STATE ENVIRONMENTAL QUALITY REVIEW ACT FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT

Accepted by the Lead Agency on February 23, 2011

Lead Agency: Town Board of the Town of Red Hook
7340 South Broadway
Red Hook, New York 12571
Contact: Sue T. Crane, Supervisor

Prepared by: GREENPLAN, Inc.

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Project Name: Proposed Amendments to Chapter 143 entitled
“Zoning” and Chapter 120 entitled “Subdivision of
Land” of the Code of the Town of Red Hook and the
Comprehensive Plan.

Project Location: Town of Red Hook, Dutchess County, New York

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This document is the Final Generic Environmental Impact Statement for the above referenced project. Copies are available for review at the office of the Lead Agency and on the Town of Red Hook website (www.redhook.org).

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CHAPTER I: INTRODUCTION

Forward

This Final Generic Environmental Impact Statement (FGEIS) has been prepared pursuant to the State Environmental Quality Review Act (SEQR) (Article 8 of Environmental Conservation Law) and its implementing regulations (6 NYCRR Part 617) for the set of related actions under consideration by the Town Board of the Town of Red Hook (the “Town Board”): adoption of amendments to Chapter 143 Entitled “Zoning” and Chapter 120 entitled “Subdivision of Land” of the Town Code, and adoption of amendments to the *Comprehensive Plan*. The individual actions are integral to one another and each was developed in a coordinated fashion to ensure consistency. As such, the proposed actions are evaluated together in this FGEIS and are referred to as the Proposed Action.

The Proposed Action was discussed and analyzed in a Draft Generic Environmental Impact Statement (DGEIS) issued on May 11, 2010. The DGEIS was prepared to analyze the potential environmental impacts of the Proposed Action and to examine alternatives to the Proposed Action consistent with a Final Scoping Document adopted by the Town Board on April 14, 2009. A Public Hearing was held on the DGEIS on June 10, 2010 and July 7, 2010. The Town Board allowed for additional written comments to be submitted until July 19, 2010. Transcripts of the Public Hearing were prepared by a court reporter engaged by the Town of Red Hook. The transcripts of the Public Hearing on the DGEIS appear in Appendix A and Appendix B herein; all written correspondence received from the public and agencies is included in Appendix C. The substantive comments received at the public hearing and during the comment period have been summarized in this FGEIS.

The purpose of this FGEIS is to respond to comments received during the public comment period on the DGEIS and to make revisions and corrections to the DGEIS. Any changes to the DGEIS in the form of additional information and modifications are provided in Chapter III herein. The comments and responses in this FGEIS are grouped and presented by category, following the order of topics as they appear in the DGEIS. Individual comments have been summarized, with reference to the source of the comment listed.

The DGEIS and this FGEIS together constitute the Town Board’s record of analysis for purposes of SEQR. The FGEIS incorporates by reference the DGEIS and each of the documents that comprise the Proposed Action. SEQR allows for the incorporation by reference of certain documents when those documents are available for full public review. This practice avoids unnecessary duplication of information found elsewhere and allows for a more concise environmental impact statement.

Description of the Proposed Action

The Town Board has proposed amendments to the Town Zoning Law, Subdivision Law, and *Comprehensive Plan* to implement the proposed “Centers and Greenspaces” Plan, as shown on Figure II-2 of the DGEIS. The individual actions are integral to one another and each was developed in a coordinated fashion to ensure consistency. As such, the proposed actions are referred to as the Proposed Action.

The amendments will create two new zoning districts (the Agricultural Business District and the Traditional Neighborhood Development District), and will replace the Town’s existing residential cluster subdivision regulations with provisions for conservation subdivisions. The amendments will also add a new section on Open Space Incentive Zoning, in addition to other incidental changes necessitated by these amendments. In order to encourage village-scale density within the Traditional Neighborhood Development District, the law eliminates the density bonus for provision of central water in the R1 and R1.5 Districts. The amendments are designed to protect the health, safety and welfare of Town residents, to bring the Town’s Zoning Law and Subdivision Law into conformance with the Town’s *Comprehensive Plan, Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities* pursuant to Chapter 17-3 of the Town Code, and with amendments since 1990 to New York State Town Law’s planning and zoning provisions.

The proposed amendments will apply town-wide with the exception of the two villages. An “Illustrative Sketch Plan” for the proposed Traditional Neighborhood Development District showing design principles for the Residential Neighborhood Subdistrict and the Commercial Center Subdistrict appears as Figure II-3 in the DGEIS. Existing Zoning Districts are shown in Figure II-4 of the DGEIS. Proposed Zoning Districts, as contemplated as part of the Proposed Action, are shown in Figure II-5 of the DGEIS. There are currently eleven Zoning Districts in the Town, including the Light Industrial Overlay. Two new Zoning Districts are proposed: the Agricultural Business District and the Traditional Neighborhood Development District. The principal changes to the Zoning Law, Subdivision Law and *Comprehensive Plan* are described fully in Chapter II of the DGEIS and readers are encouraged to consult the full text of the proposed amendments to obtain a complete understanding of all changes.

To prepare the proposed amendments, the Town Board, working with the Villages of Red Hook and Tivoli, appointed an 11-member Intermunicipal Task Force (“Task Force”) comprised of representatives from each of the three municipalities’ planning boards and zoning boards along with additional “at large” appointees from each of the municipalities, including one member from the Town’s Conservation Advisory Council. The Task Force worked for over three years to create the Centers and Greenspaces Plan and the proposed amendments to the Zoning and Subdivision Laws and the *Comprehensive Plan*. In preparing the proposed amendments, the Task Force sought out the preferences and priorities of

townspeople during an extensive public participation process that included more than 200 public meetings. This process began with community meetings and numerous discussions with stakeholders, community groups, and Town and village boards and committees. Hundreds of residents were involved in the public meetings, and additional outreach was conducted with individual stakeholders representing various interests, including developers, realtors, landowners, environmentalists, farmers, builders, historians, architects, business people, civic and community groups. A more complete description of the community outreach process can be found in Chapter II of the DGEIS. The public outreach meetings indicated strong support for the “Centers and Greenspaces” plan. Stakeholders across the board felt the Centers and Greenspaces plan was “*clearly a better way to develop than the current zoning permits,*” and most were very excited about the “smart growth” approach to planning in Red Hook.

Modifications to the DGEIS

1. The FGEIS clarifies that the Intermunicipal Task Force was not appointed by the Town Board to act as a Special Board to prepare amendments to the Town’s *Comprehensive Plan* pursuant to New York State Town Law §272-a.2(c). Thus, although the Intermunicipal Task Force suggested some draft amendments to the *Comprehensive Plan* to accompany the amendments to the Zoning and Subdivision laws, the amendments to the *Comprehensive Plan* were actually prepared by the Town Board, which held two public hearings on the *Comprehensive Plan* amendments as required by New York State Town Law.
2. There was a typographical in error in the DGEIS, which cites the 2008 population of the unincorporated area of the Town (i.e., the Town exclusive of the two Villages) as 8,455 persons. According to the US Census Bureau, the Town’s 2008 population was actually 8,482 persons, a difference of 27 persons. The FGEIS corrects this error.
3. A second typographical error in the DGEIS appears in the discussion of the Institute of Transportation (ITE)’s recommended practice for a comprehensive traffic impact analysis. The DGEIS referred to a proposed development containing about 150 single-family homes or approximately 15,000 square feet of retail; the correct figure is 100 single-family homes. The FGEIS corrects this error.

Interested Agencies

Town of Red Hook Town Clerk	Dutchess County Department of Planning and Development
Town of Red Hook Planning Board	Dutchess County Department of Health
Town of Red Hook Zoning Board of Appeals	Dutchess County Water and Wastewater Authority
Town of Red Hook Agriculture and Open Space Advisory Committee	Dutchess County Department of Public Works
Town of Red Hook Conservation Advisory Council	NYS Department of State (Coastal Management and Local Government)
Town of Red Hook Economic Development Committee	NYS Department of Transportation
Town of Red Hook Farmland Protection Committee	NYS Department of Environmental Conservation
Town of Red Hook Design Review/ Hamlet Committee	NYS Department of Agriculture and Markets
Town of Red Hook Greenway and Trails Committee	NYS Office of Parks, Recreation, and Historic Preservation
Town of Red Hook Recreation Commission	Pace University Land Use Law Center
Town of Red Hook Water Board	Hudson River Valley Greenway
Town of Red Hook Zoning Review Committee	Hudson River Heritage
Intermunicipal Task Force	Scenic Hudson
Red Hook Central School District	J. Theodore Fink, AICP
Red Hook Public Library	Christine Chale, Esq.
Tivoli Free Library	
Village of Red Hook Board of Trustees	
Village of Tivoli Board of Trustees	
Village of Saugerties Board of Trustees	
Town Board of the Town of Rhinebeck	
Town Board of the Town of Milan	
Town Board of the Town of Clermont	
Town Board of the Town of Saugerties	
Town Board of the Town of Ulster	

CHAPTER II: PUBLIC COMMENTS AND RESPONSES

COMMENTS ON CHAPTER II OF THE DGEIS

Comment 1: The Intermunicipal Task Force was established by the Town without the transparency of a designated Committee. It is not required to take minutes or have a quorum, and its meeting time does not allow meetings to be attended by the working public. Meetings occurred with stakeholders who have a financial interest in the proposal.

Source: Linda Keeling [6/10/10 correspondence, page 1]

Response: The Intermunicipal Task Force (“Task Force”) was created by resolutions of the Town of Red Hook, the Village of Red Hook, and the Village of Tivoli in April 2005. It is comprised of eleven members appointed by the three municipalities, including representatives from each of the three municipalities’ planning boards and zoning boards along with additional “at large” appointees from each of the municipalities, including one member from the Town’s Conservation Advisory Council. All meetings of the Task Force are open to the public and many residents have attended the meetings regularly. The Task Force’s recommendations are available for review at Town Hall. It should also be noted that all residents and landowners in the Town of Red Hook have a financial interest in the Proposed Action, as outlined in the Fiscal Impact Analysis in the DGEIS.

The Task Force was created at the recommendation of the Land Use, Conservation, and Development Working Group (“Working Group”) which was appointed by the Town on March 10, 2004 to assess critical land use priorities in the Town of Red Hook and to make recommendations to the Town Board about how to achieve the priorities identified by the Working Group. Membership on the Working Group was recommended by a Steering Committee consisting of representatives from the Red Hook Town Board, the Board of Trustees of the Villages of Tivoli and Red Hook, the Red Hook School District, and the Dutchess County Legislature. The Working Group consisted of residents of the municipalities of the Town of Red Hook, the Village of Red Hook and the Village of Tivoli.

The Working Group met weekly in public meetings from March 24, 2004 to July 7, 2004, and hosted two community meetings on March 20, 2004 and April 17, 2004 to receive input from residents of the Town of Red Hook and

the Villages of Red Hook and Tivoli to assess the critical land use issues and goals for the community. Based on this community input, the Working Group compiled a comprehensive list of *Recommendations* which it presented to the Red Hook Town Board during the Board's regularly scheduled meeting on July 13, 2004. Based on the Working Group's recommendations, officials of the Town of Red Hook met with officials of the Village of Tivoli and the Village of Red Hook on January 24, 2005 and March 7, 2005, to discuss the formation of an Intermunicipal Task Force.

The Intermunicipal Task Force worked for over three years to create the Centers and Greenspaces Plan and the proposed amendments to the Zoning and Subdivision Laws. In preparing the proposed amendments, the Task Force sought out the preferences and priorities of townspeople during an extensive public participation process that included more than 200 public meetings, as described in detail in Chapter 2 of the DGEIS. The public outreach meetings indicated strong support for the "Centers and Greenspaces" plan.

The Chairman of the Intermunicipal Task Force prepares a monthly report on the work of the Task Force, which he presents to the Town Board during its regular meeting. So far, over 70 reports have been presented to the Town Board. All reports are filed with the Town Clerk and are available for public review. Regular meetings of the Task Force are held Friday mornings at 8 AM to allow members of the Task Force and the public an opportunity to attend meetings before the start of the regular work day. As outlined in the DGEIS, the Task Force met with individual stakeholders representing various interests in the Town, including developers, realtors, landowners, environmentalists, farmers, builders, historians, architects, business people, civic and community groups.

Comment 2: A public survey was not used to solicit community thoughts on the Proposed Action. The proposal is arbitrary and capricious.

Source: Linda Keeling [6/10/10 correspondence, page 1]

Response: The Proposed action is not arbitrary and capricious. On the contrary, as discussed in detail in Chapter 2 of the DGEIS, the Proposed Action is the result of an extensive public participation process that included more than 200 public meetings to solicit input from the community. This process indicated strong support for the "Centers and Greenspaces" plan. The Proposed Action is consistent with, and is intended to implement, the existing recommendations of the Town's adopted *Comprehensive Plan* to

maintain the Town’s rural character by providing incentives for new development to locate within or adjacent to existing centers while discouraging a land use pattern that uniformly disperses development throughout the Town. The proposed action is also consistent with the recommendations of the Town’s adopted *Open Space Plan* to ensure that as the Town grows, it maintains its historic “town and country” settlement pattern with new development located in and adjacent to existing centers and the preservation of farmland. As discussed in the DGEIS, the proposed action is consistent with the recommendations of the Dutchess County Plan *Directions*, the Dutchess County *Agriculture and Farmland Protection Plan*, the New York State’s Quality Communities Interagency Task Force Report *State and Local Governments Partnering for a Better New York*, and the *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities*. In fact, Dutchess County has recently developed a new *Greenway Guide* entitled “Centers and Greenspaces,” which uses Red Hook’s Proposed Action as a model for other Dutchess County communities to emulate. All of the above cited plans call for locating new development in and adjacent to existing centers while conserving important farmlands and open space in the remainder of the Town. The Proposed Action is entirely consistent with these policies.

COMMENTS ON CHAPTER III OF THE DGEIS

A. Land Use, Zoning and Public Policy

General Comments

Comment 3: The Dutchess County Department of Planning and Development continues to fully support the reciprocal and mutually beneficial strategies represented by the proposed AB District and TND District.

Source: Dutchess County Department of Planning and Development [6/18/10 correspondence, page 1]

Response: Comment noted.

Comment 4: The DGEIS has provided a comprehensive evaluation of the Proposed Action and a wide range of alternatives, including the number of new residences and residents each would allow and the services they would require. This detailed analysis clearly demonstrates that the Proposed Action and all alternatives considered significantly reduce the amount of residential development currently allowed by the Town’s existing Zoning

Law and, more specifically, the sprawling residential development that would otherwise replace Red Hook's valuable agricultural landscape. We encourage the Town Board to support the proposed amendments to implement the proposed Centers and Greenspaces Plan.

Source: Dutchess County Department of Planning and Development [7/7/10 correspondence, page 1-2]

Response: Comment noted.

Comment 5: This is a constructive plan that's based on 20 years plus of extraordinary public work, volunteer work, effort, thought and care about the community, and it is consistent with our vision. I support this marvelous attempt at providing a strong future for us that is rooted in our past and in agriculture.

Source: Chris Klose [6/10/10 hearing transcript, page 51-52]

Response: Comment noted.

Comment 6: Scenic Hudson strongly supports the Centers and Greenspace Plan and amendments. The amendments will focus growth in areas with existing infrastructure, and protect agricultural lands for local food production. Future development will be designed in a manner compatible with Red Hook's rural character.

Source: Jeffrey Anzevino, Scenic Hudson [6/10/10 hearing transcript, page 36-37; 7/7/10 correspondence, page 2; 7/7/10 hearing transcript, page 34-35]

Response: Comment noted.

Comment 7: The Town should hold a meeting so people can ask questions and get answers.

Source: Paul Fredricks [7/7/10 hearing transcript, page 38]

Response: As discussed in detail in Chapter 2 of the DGEIS, the Proposed Action is the result of an extensive public participation process that included more than 200 public meetings, including numerous meetings with individual stakeholders representing various interests in the Town and with landowners in the proposed AB District. In response to community comments, numerous changes were made to the Proposed Action during the planning process. The Proposed Action has also been reviewed by the Town's Planning Board and by other Town appointed committees including the Economic Development Committee, the Agriculture and Open Space

Advisory Committee, the Conservation Advisory Committee, and the Intermunicipal Task Force. The Proposed Action has been revised in response to the comments of these boards and committees.

Comment 8: We should keep Red Hook a small town rather than encourage a lot of residential and commercial development.

Source: Nick Annas [7/7/10 hearing transcript, page 44]

Response: Comment noted. The purpose of the Proposed Action is to ensure that as Red Hook grows, it remains a small town, with defined community centers surrounded by farmland and open space, rather than becoming a sprawling suburb. The difference between the sprawling development pattern permitted by the current zoning and the small town development pattern permitted by the Proposed Action can be seen in the following illustrations.

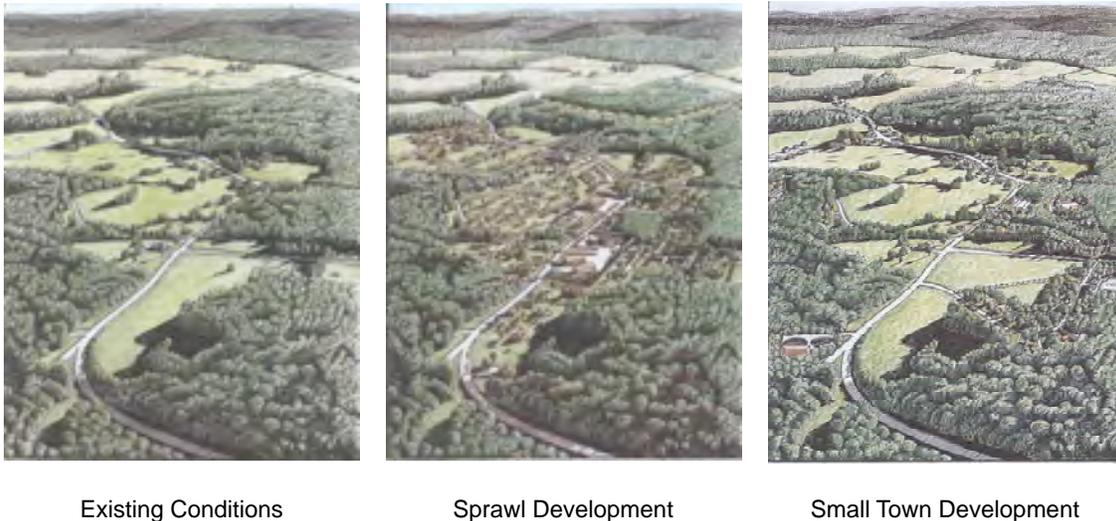


Figure II.1: Sprawl Vs. Small Town Development

Comment 9: How can Councilman O'Neill and Councilman Colgan be considered fair and impartial as to the overwhelming negatives of this proposal when they are the conceptualizers and creators of the entire Plan. They should recuse themselves immediately from any future voting related to this issue.

Source: Save Our Town Committee¹ [7/14/10 correspondence, page 3]

¹ The Save Our Town Committee comprises the following individuals: Rosemarie Zengen, David and Deborah Temple, Ann Fried, Angie and Ralph Frisenda, Amelia Flavin, R. V. Howland, Vengrin, and Thomas Mollica. See correspondence from Save Our Town Committee dated 7/14/2010, page 3.

Response: Councilman O'Neill is the Chairman of the Intermunicipal Task Force. Councilman Colgan is the Town Board liaison to the Intermunicipal Task Force. See response to Comment 1 above.

Comments on the Build-Out Analysis

Comment 10: In the 1980's the total build out for the Town was estimated at 12,000 homes. The new build-out estimates it's 11,749 homes. If you look at all the land that's been protected since 1980, how can you come up with 11,000 new homes?

Source: John Douglas [6/10/10 hearing transcript, page 31-32]

Response: The build-out analysis prepared for the Town by GREENPLAN, Inc. in March 2010 (Appendix F of the DGEIS) did not estimate that the current Zoning would permit 11,749 new dwellings. It estimated the current Zoning would permit approximately 3,588 new dwellings. The impact of this build-out would be an increase in the Town's population of 11,089 new *residents*. Lands protected by conservation easements were not included in the analysis. The Town Clerk's Office searched the minutes of the Town Board meetings from 1978 to 2003 and did not find a reference to a build-out analysis conducted for the Town in the 1980's.

Comment 11: While it's stated fairly clearly in these studies that there's a huge difference between a total build-out under our existing zoning and the Proposed Action, I think the build-out is specious. I have 9½ acres in a 3 acre zone and it would be totally impossible for me to put two other houses on that property.

Source: Doug Moat [6/10/10 hearing transcript, page 45]

Response: A build-out analysis is a planning tool recommended by the American Planning Association and by agencies such as the U. S. Environmental Protection Agency that allows communities to understand how much development their current Zoning or proposed Zoning amendments would permit. A situation such as the commentator mentions above was accounted for in the build-out analysis since environmental constraints (such as wetlands and floodplains, etc.) were deducted from the gross acreage prior to calculating how many dwelling units would be permitted. A deduction was also made to account for necessary infrastructure (roads and drainage) and inefficiencies in lot layout. The methodology of the build-out analysis is explained in detail in Build-Out Analysis that appears as Appendix F of the DGEIS.

Comment 12: The build-out analysis is faulty because State lands were included in the analysis.

Source: Richard Biezynski [6/10/10 hearing transcript, page 56]

Response: Public lands and other lands that cannot be developed (such as lands under conservation easement) were not included in the Build-Out Analysis. See Appendix F of the DGEIS (page 3), which states “the acreage of easement protected and public lands was calculated and deducted from the gross acreage. The build-out analysis was conducted on the remaining lands (the Net Unprotected Acres).” Figure 2 in Appendix F of the DGEIS identifies the easement protected and public lands that were excluded from consideration in the build-out analysis.

Comment 13: The build-out analysis did not consider that many farmers have received a PDR advantage which takes most of their acreage out of the residential calculations.

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: As noted in the preceding response, lands from which development rights have been purchased and which are therefore encumbered with a conservation easement were not included in the build-out analysis.

Comment 14: The conclusions of the DGEIS are faulty because the Proposed Action is based on major premises concerning growth since 2007, but the build-out analysis was not presented until March 2010.

Source: Save Our Town Committee [7/14/10 correspondence, page 1]

Response: As explained in the DGEIS (page III-3), an earlier build-out analysis of the proposed Zoning amendments, which was conducted for the Town in 2007 by the Dutchess County Department of Planning and Development, focused on the proposed AB District and TND District². Subsequently, the Town Board made modifications to the Proposed Action, specifically to the proposed Zoning Map and to permitted density levels of various additional Zoning Districts. Consequently, a new Build-Out Analysis was conducted for the Town by GREENPLAN, Inc. (March 2010), to assess the impacts of the current Zoning, the proposed amendments, and the alternatives being considered in this EIS.

² This is distinct from another build-out analysis of the Town’s *current* Zoning Law that the Dutchess County Department of Planning and Development conducted for the Town in 2000.

Comment 15: The Town population was underestimated. The new 2010 census has not even been completed yet. The DGEIS states that in 2008 the Town's population was 8,455 persons, but the Town's population in 2000 was 10,400. Environmental impacts know no municipal borders and therefore the village populations should be included, along with Visa (green card) populations and institutional populations.

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: As stated in the DGEIS,³ the US Census Bureau 2008 population estimate cited in the DGEIS does not include the two Villages. According to the US Census Bureau, the Town's population (exclusive of the two Villages) was 7,440 persons in the year 2000 and 8,482 persons in 2008 (see the Resident Population Table prepared by the Dutchess County Department of Planning and Development that appears in Appendix D of this FGEIS). However, there was a typographical in error in the DGEIS, which cites the 2008 population as 8,455 (a difference of 27 persons). The US Census Bureau provides an estimate of population once a year based on birth and death rates and migration data.

The population of the two Villages were not included in the Build-Out Analysis because the Town, by law, cannot control Zoning in the Villages and no Zoning amendments are proposed as part of this action for lands within the Villages. Nonetheless, the proposed amendments were prepared in consultation with elected and appointed officials of the two Villages who served on the Intermunicipal Task Force of the Town of Red Hook and the Villages of Red Hook and Tivoli, and officials and residents in all three municipalities were directly involved in the extensive public planning process in preparation of the Centers and Greenspaces Plan and the Proposed Action.

Institutionalized populations are captive populations and are always counted in the Census. Every person with a property address, including legal and illegal residents, receives a copy of the Census survey and is counted in the Census if they answer the survey. If they do not answer the survey, they will still be included in the Census if they are counted by a census taker.

Comment 16: Bard College and Devereux should have been included in the build-out analysis as they have purchased properties for staff and have the potential

³ See footnote 3 on page I-7, footnote 19 on page III-4, and Appendix F, page 2.

to build more dormitories and housing units in the future. Dormitories at Bard College are occupied for nearly 10 months of the year and should be figured into the calculations.

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: The purpose of the Build-Out Analysis was to determine the permitted number of additional residential dwelling units that could be constructed under the existing Zoning, the Proposed Action and the various Alternatives, and to assess the potential impacts of these dwellings on a number of different impact categories, such as population growth and the school district, etc. As discussed in the Build-Out Analysis in Appendix F of the DGEIS (page 6), lands in educational use (Bard College, Mill Road Elementary School, and the Devereux Foundation) were not included in the build-out analysis since they are unlikely to be developed with residential uses (such as single family dwellings, two-family dwellings, multi-family dwellings etc.). Moreover, since these properties are not proposed to be rezoned, their impact is a constant in all of the build-out scenarios studied.

Comments on the TND District

Comment 17: Is the Light Industrial Zone being eliminated from the Zoning Code?

Source: Paul Fredricks [6/10/10 hearing transcript, page 48]

Response: The Light Industrial District would not be eliminated. This District, which is a floating district, is variously referred to in the Town's current Zoning Law as the "Light Industrial District" and the "Light Industrial Overlay District."

Comment 18: The 46 acres by Hannaford is owned by a client of mine. Presently, that property has 59 uses allowed by Zoning. With this new law it looks like it's going to be cut down to seven—light industrial park, lodging, office and office park. It is questionable that the use of spot zoning to create the new Office-Industrial Subdistrict and eliminating almost 50 uses which are still allowed in other RD3 zones, including a 3 story hotel, and imposition of limitations to 4 or 5 uses that any development will occur, therefore the proposed change will mean a 50% loss of square feet of commercial development. According to the proposed code, a hotel would not be allowed because under conference center it says that a hotel or motel could not be maintained on the premises. I know it's a piece of land that we're thinking about developing to increase our tax base, and I don't think we're

doing that. Leave the 46 acres proposed for the Office-Industrial Subdistrict the way it's currently zoned as RD3. Zoning District.

Source: Paul Fredricks [6/10/10 hearing transcript, page 49; 7/18/10 correspondence, page 1]

Response: A hotel would be a permitted use in the proposed Office-Industrial Subdistrict of the Traditional Neighborhood Development District since a hotel is a type of "lodging," which is defined as "premises available for transient renting of bedrooms, but excluding boarding house or rooming house." The District, which includes the acreage referenced above and other lands, would permit a variety of commercial uses, including conference centers, laboratories, light industrial parks, light manufacturing, offices, office parks, and lodging. All of these uses would be permitted as-of-right without a special use permit. The current Zoning's special permit conditions for conference centers would not apply to the proposed Office-Industrial Subdistrict.

The proposed zoning of these lands is not spot zoning because it is part of a comprehensive set of zoning amendments.

The proposed Office-Industrial Subdistrict would permit greater lot coverage than the current Zoning; while the RD3 Zoning District (as this acreage is currently zoned) permits 7% building coverage and the Town's current provisions for a conference center permits only 5% building coverage, the proposed District would permit 20% building coverage, which could result in a significant increase in commercial square footage. The Office-Industrial Subdistrict was included in the Proposed Action at the recommendation of the Town's Economic Development Committee to increase the Town's tax base. The district is ideally located for light industrial and office type uses since it is accessed by a State highway and is in close proximity to community water and proposed community sewer, infrastructure required by such uses.

Comment 19: Locating new development adjacent to the Village is a good idea, but the review process takes a long time and is costly to a developer. What incentives is the Town giving to attract developers?

Source: Ken Anderson [7/7/10 hearing transcript, page 50-51]

Response: The proposed TND District provides clear design standards and illustrations to create traditional neighborhoods in keeping with the Village

of Red Hook. These standards will make development decisions more predictable and cost effective.

Comment 20: New apartments or institutionally built housing hurts existing apartment owners. Currently, many existing apartments remain vacant because of the poor economy.

Source: Save Our Town Committee [7/14/10 correspondence, page 3]

Response: The Proposed Action is being undertaken as a long term plan for the community and thus, does not factor in regularly recurring economic cycles. The Zoning amendments have been drafted to provide affordable housing options and a variety of housing types; see the response to Comment 73.

Comment 21: There is a limitation in the Business 1 (B1) and Business 2 (B2) Zoning Districts that unfairly disallows camping or picnicking in the woods.

Source: Save Our Town Committee [7/14/10 correspondence, page 3]

Response: No changes to the Town's existing B1 and B2 Zoning District requirements are proposed as part of this action.

Comments on Agricultural Resources

Comment 22: Agriculture is one of Red Hook's strongest economic assets and is a good model for sound economic development policy. Farming generates jobs, tax revenues and a flow of steady spending to many local businesses in our Town. The Economic Development Committee supports the Proposed Action.

Source: Town of Red Hook Economic Development Committee [7/7/10 correspondence, page 7, and 7/7/10 hearing transcript, pages 29-30]

Response: Comment noted.

Comment 23: I support this very thoughtful action. The world is running out of agricultural land and a lot of places that are in agricultural production are running out of water. We need to preserve agricultural land in areas which have adequate rainfall, like Red Hook.

Source: Sheryl Griffith [6/10/10 hearing transcript, page 29]

Response: Comment noted.

Comment 24: Future development in the AB District includes more options than in any other Hudson Valley communities. The proposed amendments strike a healthy balance between conserving land, without stripping away the development rights and economic value of larger properties. Scenic Hudson commends the Town for working with large landowners to find an equitable way of implementing recommendations from the Town's *Comprehensive Plan* into the Zoning that do not remove economic value from the land.

Source: Jeffrey Anzevino, Scenic Hudson [6/10/10 hearing transcript, page 36-38]

Response: Comment noted.

Comment 25: I noticed inconsistencies in terminology. We have silly things like ag. district, ag. business district, ag. business development district and all the acronyms that go with it. I presume they're all the same thing. You ought to be consistent.

Source: Doug Moat [6/10/10 hearing transcript, page 41]

Response: A search of the proposed Local Law reveals that there are only two such terms used throughout the document: the Agricultural Business District (which is the proposed Zoning District) and the New York State certified Agricultural District, established pursuant to the New York State Agricultural Districts Law. These terms refer to two different types of agricultural districts, and they are used correctly and consistently throughout the Local Law. The Agricultural Business District is proposed as a new Zoning District by the Town Board, whereas the New York State certified Agricultural District is established by the Dutchess County Legislature under the New York State Agriculture and Markets Law. While these two different types of districts share common goals to encourage the development and improvement of agricultural lands for the production of food and other agricultural products, one is a local land use control while the other is a broad Statewide program that derives from the New York State Constitution's mandate for the legislature to "provide for the protection of agricultural lands."

Comment 26: There is an inconsistency with respect to the proposed Open Space Incentive Zoning. In one place it says the specific purpose will be to preserve open space in the AB District, and not five paragraphs later it says the purpose will be to provide incentives for village-scale development in the TND District.

Source: Doug Moat [6/10/10 hearing transcript, page 42]

Response: These two statements are consistent with one another. Incentive Zoning is a zoning tool authorized by § 261-b of NYS Town Law that provides incentives to developers in exchange for community benefits. In the subject case, the provisions would authorize adjustments to building potential in the TND District in exchange for funds to be used exclusively to preserve greenspaces in the AB District. See § 143-49.2A(1) of the proposed Local Law, which states that the Open Space Incentive Zoning provisions are intended to allow for “adjustments to permissible building potential and area requirements in the Traditional Neighborhood Development (TND) District for the specific purpose of preserving open space in the Agricultural Business (AB) District.”

Comment 27: I have a question on the difference between the conservation subdivision and the open space density subdivision.

Source: Marcy Appell [6/10/10 hearing transcript, page 46]

Response: A conservation subdivision permits greater design flexibility and smaller average lot sizes than otherwise possible in a conventional subdivision in order to preserve greenspaces on the remainder of the property *without increasing building potential for the tract as a whole*. An open space density subdivision, on the other hand, grants landowners flexibility in road layout and design and road frontage requirements if the landowner commits to a *reduced* density and permanently preserves open space to prohibit further subdivision of the parcels. In the RD3 Zoning District, for example, the minimum required lot size for an open space density subdivision is nine (9) acres, rather than three (3) acres for a conventional subdivision. The difference between a conservation subdivision and an open space density subdivision is illustrated below (Figure II-2). The Town currently has provisions for open space density subdivision in its Subdivision Regulations; only the name was changed (from conservation density subdivision) so it would not be confused with conservation subdivisions.

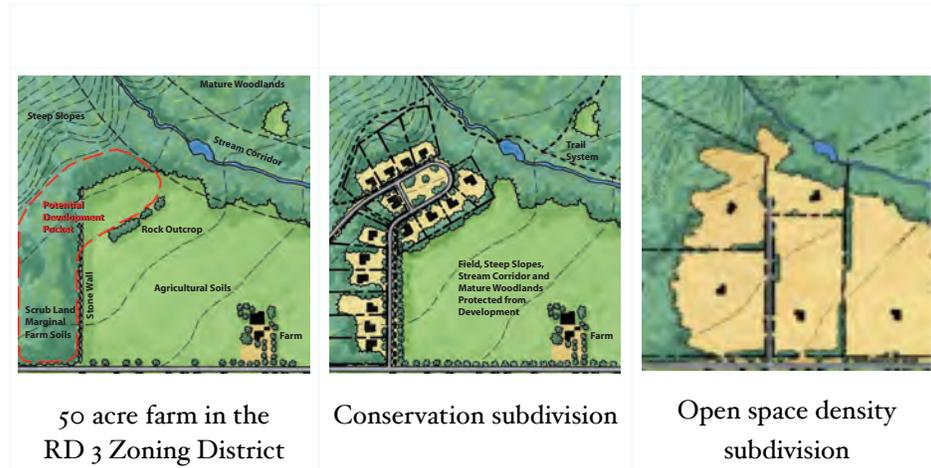


Figure II-2: Conservation Subdivision vs. Open Space Density Subdivision

Comment 28: In the AB District, one of the permitted uses is “carnival, fair or circus” and it looks like you don’t need a special permit or any kind of approval, and I think that use should be subject to a special permit by the Planning Board or some sort of review by the Town Board.

Source: Marcy Appell [6/10/10 hearing transcript, page 46]

Response: “Carnival, fair, circus, flea market or similar event (on-premises)” is a temporary use that is currently permitted in all Zoning Districts in the Town with the exception of the Waterfront Conservation (WC) and Light Industrial (LI) Districts. This use is governed by the provisions of § 143-44 (“Temporary buildings and uses”) of the Town’s Zoning Law, which permits the use if it is sponsored by a church, school, civic association or similar nonprofit organization. Chapter 44 of the Town Code (“Public Assemblies”) requires that any assemblage or gathering of more than 1,000 persons or any assemblage or gathering of more than 500 persons which continues for more than eight consecutive hours requires a permit from the Town Board.

Comment 29: The Town’s investment in purchase of development rights would be wasted if lands surrounding protected farmland are allowed to be developed. I am submitting an article by Deborah Bowers about this.

Source: Robert McKeon [6/10/10 hearing transcript, page 55]

Response: Comment noted.

Comment 30: Controlling growth, preserving rural character, and growing local food are important long term goals. More and more people want to know where their food comes from.

Source: Robert McKeon [6/10/10 hearing transcript, page 55]; Dan Turgeon [7/7/10 hearing transcript, page 54]

Response: Comment noted.

Comment 31: Landowners may lose equity on the building rights because of the reduced density. What would happen to the value of purchase of development rights if this law was in place? A meeting could be held with Scenic Hudson, Dutchess Land Conservancy, and Winnakee Land Trust to see how the law would affect the assessment of PDR.

Source: Ken Migliorelli [6/10/2010 hearing transcript, page 59; 7/7/10 hearing transcript, page 32]

Response: A study provided by Winnakee Land Trust of how conservation easements are appraised appears in Appendix E of this FGEIS. The study outlines the different methodologies for appraising easements and the many factors that must be taken into consideration in an appraisal. Zoning is only one factor in determining the value of a conservation easement in the “before and after” appraisal process, and it is qualified by a number of caveats.

The “before and after” appraisal process as it pertains to valuing conservation easements is based generally on the format found in the Uniform Appraisal Standards for Federal Land Acquisition, and is intended to provide a detailed overview of the components of a “qualified appraisal” for federal income tax purposes as defined at Treasury Regulations 1.170A-13. This appraisal method considers a number of factors, including the property’s location, size and shape, topography, soils, minerals, environmental hazards, endangered species, floodplains and drainage, legal and physical access, existing easements or deed restrictions, status of public utilities, water rights, land use regulations, market demand, and surrounding ownership and uses. Appraisals need to take into consideration all of the other property owned in the area by the landowners and their family. This is because of what is known as “enhancement” value. If a landowner places an easement on property adjacent to her father, the father’s property benefits (or is enhanced) by the adjacent conservation easement. Therefore it must be reflected in the easement’s value. Information about the immediate neighborhood and market area for the property is also considered to create a context for discussing the property’s highest and best

use, and the valuation analyzes local market trends, such as historic and forecast population changes (up, down, or level), any market for water rights separate from land, employment trends, etc. In some areas, for example, a large component of the market value of a property may be attributable to the value of second or third homes, rather than being based on the development potential permitted by zoning.

In many open space easement appraisals, most of the property value before and after the easement derives from the “vacant” land itself (and not necessarily from additional development potential, etc.). Thus, in many easement appraisals, this will be the principal valuation question to be solved. As outlined in the study in Appendix E, there are six interrelated techniques for valuing land as vacant. The subdivision development technique of land valuation is only one of these six interrelated techniques, and it comes with a strong cautionary note:

“Six interrelated techniques for valuing land as vacant:

(a) Sales Comparison

(b) Allocation

(c) Extraction

(d) Subdivision Development NOTE – This technique results in very misleading indications of property value when it is not used extremely carefully. This technique should not be used unless the highest and best use of a property is for division and development within a reasonably short period of time, when costs of development can be accurately identified, when potential sale prices of resulting parcels can be estimated, and when realistic absorption rates can be supported by market evidence.

(e) Land Residual

(f) Ground Rent Capitalization”⁴

Thus the subdivision development potential of a property (as determined by zoning) is only one factor that is considered in appraising the value of vacant land, and it must take into consideration the conditions listed above or it is misleading.

⁴ *A Conservation Easement Appraisal Guide: A Brief Overview of Easement Valuation in Colorado*, Colorado Coalition of Land Trusts (June 25, 2004), page 24 to 25. Although the study was written by a Colorado land trust, it discusses federal laws that are applicable to other states.

The same is true for evaluating the value of the land *after* the easement has been placed on it, when the study states, “if using a Subdivision Development technique, appraisers should consider the reduced number of units or parcels that can be created on the subject property. NOTE: As in before-easement valuation, the development technique is valid only when some type of development is in fact the highest and best use of the property, when that development is fairly imminent, when costs of development can be identified accurately, and when absorption rates can be supported by market evidence.”⁵

Similarly, the study identifies relying entirely on the Subdivision Development Analysis technique (which bases an easement’s “before” value on revenues generated by development of the property) as a “serious technical issue:”

“In order to be valid, the subdivision development plan must be a permitted use according to local zoning codes, must be technically feasible, and must be a likely form of development given the local market. Many Subdivision Development Analyses are frequently supported by:

- inadequate land use plan without engineering input and lacking substantiated development costs.
- poorly supported forecasts of lot sale prices,
- poorly supported lot absorption forecasts,
- poorly supported discount rates,
- inadequate profit allocation”⁶

Alternatively, an appraiser may use the “sales comparison” method to appraise the value of an easement. When there is substantial record of sales of easements in a locality (through a purchase of development rights program, for example, as is the case in Red Hook), the fair market value of the easement will be determined by comparing it with the sale of other conservation easements.

Comment 32: The use of purchase of development rights (PDR) provides a mechanism to compensate landowners for the loss of development potential

Source: Jeffrey Anzevino, Scenic Hudson [7/7/10 hearing transcript, page 35; 7/7/10 correspondence, page 2]

⁵ *Ibid.*, page 28.

⁶ *Ibid.*, page 33.

Response: Comment noted.

Comment 33: We need to save the land and steward it carefully. I support the Centers and Greenspaces Plan.

Source: Chris Klose [7/7/10 hearing transcript, page 32]

Response: Comment noted.

Comment 34: Where will the money come from to purchase development rights?

Source: Leigh Cookingham [7/7/10 hearing transcript, page 33]

Response: Funds for the purchase of development rights will come from the Town's existing Purchase of Development Rights Program and Community Preservation Fund, and from the proposed Incentive Zoning program. Incentive Zoning funds will come from developers who wish to increase building potential above the base zoning in the TND District.

Comment 35: We should save farms. We should promote farms. We should save the land, but we have to think about protecting the people too and how do they live there.

Source: Paul Fredricks [7/7/10 hearing transcript, page 38]

Response: Comment noted.

Comment 36: The Centers and Greenspaces Plan will have positive environmental impacts. The new Agricultural Business District provides a zone where agriculture can flourish. Incentive zoning provides a mechanism for establishing funds to preserve agricultural lands and open spaces, a priority goal in the Town's *Comprehensive Plan*. The proposed conservation subdivision regulations with the four-step design process better protects natural resources by first identifying features to be preserved and then designing for development. For major subdivisions, a resource analysis map would be required during the pre-application process, so that natural resources to be protected can be identified early.

Source: Brenda Cagle for the Town's Conservation Advisory Committee [7/7/10 hearing transcript, page 40 and 7/7/10 correspondence, page 1]

Response: Comment noted.

Comment 37: How will the proposal affect farmers' ability to get loans? I checked with some bankers and they will not lend money to a farm if development rights have been sold. Farmers will be hard pressed to find financial help through bank loans when the land has limited value.

Source: Richard Biezyński [7/7/10 hearing transcript, page 46]; Paul Fredricks [7/7/10 hearing transcript, page 52-53 and 7/18/10 correspondence, page 1]

Response: There is no requirement that farmers sell their development rights. Furthermore, operating loans to farmers are generally based on the demonstrated financial performance of the farm business, not the development value of the land. The financial performance of the farm business is established by past performance of the farm and the viability of plans to alter farm operations or engage in a new farm-based business. When making a loan, bankers are more concerned about the farm business's ability to generate enough cash to pay the loan than the value of the land. Land instead offers a source of collateral, based on its appraised value as a back-up when the business cannot pay cash. Farm Credit has been lending for years to farms from which development rights have been sold.

Comment 38: It seems we are not going to be able to sell development rights individually, that the development rights would be considered building credit that will be used by the Town and distributed and sold. We really want to understand this transfer of development rights proposal. That's the most important question we have.

Source: Richard Biezyński [6/10/10 hearing transcript, page 57-58 and 7/7/10 hearing transcript, page 46]

Response: A transfer of development rights (TDR) program has not been proposed. Development rights can be sold in the same manner as they are currently. If a landowner elects to sell development rights, they may sell the development rights through one of the Town's programs or to any qualified easement holder, as is the current practice.

Comment 39: What are the benefits to preserving the Town's rural character?

Source: Ken Anderson [7/7/10 hearing transcript, page 50]

Response: Preserving the Town's rural and agricultural character is a key goal identified by Town residents in the Town's adopted *Comprehensive Plan* and *Open Space Plan*. As discussed in the DGEIS, preserving the Town's agricultural lands and locating new development within and adjacent to existing centers

(rather than dispersing it throughout the countryside) would result in an approximately 64% reduction in future traffic impacts and a significant improvement to the tax base, amongst other beneficial environmental and socio-economic impacts as discussed fully in the DGEIS.

Comment 40: Incentive zoning means farmers have to sell development rights.

Source: Paul Fredricks [7/7/10 hearing transcript, page 52]

Response: The Proposed Action is intended to encourage landowners to voluntarily preserve their land. There is no requirement for landowners to sell their development rights. Landowners who chose to sell their development rights are granted a density bonus and may sell at the zoning level of the 1999 Zoning Map.

Comment 41: Although Scenic Hudson and Greenplan state that this new zoning favors the local farmers, most of the local farmers are vehemently opposed (Migliorelli, Biezynski, etc.). We would hope that all committees involved would not presume to know better what behooves the farmer than the farmer himself.

Source: Save Our Town Committee [7/14/10 correspondence, page 1]

Response: The proposal has been designed to encourage farming based upon planning techniques that have proven successful elsewhere and are recommended by many entities, including the Town's adopted *Comprehensive Plan*, the *Dutchess County Agricultural and Farmland Protection Plan*,⁷ and American Farmland Trust. The Town's Agriculture and Open Space Advisory Committee has reviewed the Local Law and numerous revisions have been made to the document based on their comments. Like any other planning and zoning matter, there will be a review process in place to monitor how successful the proposal is, assuming it is enacted. If there are changes that need to be made in the future, the most appropriate means to make such changes is to ensure that they are consistent with the planning objectives recommended in the Town's adopted *Comprehensive Plan*, pursuant to New York State Town Law 272-a.

Comment 42: The plan to "enhance agricultural businesses that contribute to the general economic conditions of the Town by allowing a wider range of industrial and commercial uses on farm properties" contradicts the plan to "prevent fragmentation of the Town's existing agricultural lands by non-agricultural

⁷ As discussed in the DGEIS pages III-16 to III-18.

development.” Growing food for human consumption should be encouraged rather than exploiting the land for industrial uses. In addition, wider commercial uses could negatively impact the value and quality of life of adjoining residential properties.

Source: Save Our Town Committee [7/14/10 correspondence, page 1]

Response: The purpose of the amendments is to enhance economic opportunities for farmers to encourage them to continue farming or to start new farms on fallow land. An increase in the number of residential neighbors can increase the number of complaints and costly nuisance suits a farmer receives, making farming more difficult. The non-agricultural development that fragments agricultural land cited above refers to residential development, not industrial development. Farming is an industrial use of land.

Currently lands proposed to be included in the AB District are permitted only one principal use per lot; this would be amended when the principal use of the lot is for agriculture, in which case all of the permitted uses and their accessory uses in the AB District would be allowed, in addition to one (i) special permitted use, when the uses are clearly incidental and secondary to the principal use of the land for agricultural purposes and do not alter the suitability for the principal use of agriculture.

Comment 43: You don't protect open spaces by promoting density.

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: The Proposed Action is consistent with the existing recommendations of the Town's adopted *Comprehensive Plan* to preserve the Town's rural character by providing incentives for new development to locate within or adjacent to existing centers while discouraging a land use pattern that uniformly disperses development throughout the Town. The Residential Neighborhood Subdistrict of the proposed TND District would have a base zoning of one (i) dwelling unit per net acre. A developer could increase building potential above the base zoning, in keeping with the existing character of the Village of Red Hook, by contributing to a dedicated greenspace fund through incentive zoning. These funds could only be used to purchase development rights from lands in the proposed AB District. This is the mechanism for transferring building potential to lands that have been identified for development (i.e., "centers") in the Town's *Comprehensive Plan* from lands that have been identified in the *Plan* for conservation (i.e., "greenspaces"). Thus, promoting density in the

Residential Neighborhood is, in fact, the means to protect open spaces in the AB District. Residential development is promoted in the traditional neighborhoods, where it supports Village businesses and encourages additional commercial development in the TND Commercial Center, rather than on farmland. The Town's existing Zoning, on the other hand, promotes sprawl, which converts open space to house lots.

Comment 44: The content and results of the AB District landowner survey were never made public. It does not indicate the number of proposed AB District residents receiving the survey, the types of questions and the statistical results. Those individuals selected never met as a large group, and the meetings with the landowners were not advertised and did not happen in public.

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: The AB District landowner survey and the survey results were presented to the Town Board and are available from the Town Clerk's Office. The purpose of the survey was to clarify the proposed Zoning amendments for landowners who would be included in the AB District, and to invite them to meet, at their convenience, with members of the Intermunicipal Task Force and the Town's Agriculture and Open Space Advisory Committee to discuss any questions concerns they might have. Every effort was made to ensure that all households in the proposed AB District received a copy of the survey. The purpose of the meetings was to spend time with each individual landowner who wished to meet and discuss the proposal in greater depth. All meetings with landowners who wished to participate occurred in the Red Hook Town Hall and were open to the public. Larger public meetings for all landowners in the proposed AB District were held previously, on June 6, 2008 in the Tivoli Village Hall and on June 18, 2008 in the Elmendorph, while the proposed Zoning amendments were being developed. As a result of those meetings, further changes and modifications to the proposed amendments were made. The extensive public participation process undertaken to prepare the proposed amendments is outlined more fully in Chapter II of the DGEIS (pages II-2 to II-4).

B. Water Resources

a. Groundwater

Comment 45: The Centers and Greenspaces Plan will have positive environmental impacts. The estimated decrease in build-out potential under the proposed amendments will result in approximately 1.1 million gallons per day less water usage. The Chazen Companies' water resource assessment determined that there is sufficient sustainable aquifer recharge to supply the cumulative water demands of the action, and that by using sustainable stormwater management practices, recharge rates could be improved. The Conservation Advisory Committee recommends that the study of low impact design stormwater management techniques continue and be implemented.

Source: Brenda Cagle for the Town's Conservation Advisory Committee [7/7/10 hearing transcript, page 40-41 and 7/7/10 correspondence, page 1]

Response: The creation of increased impervious surfaces in the TND District may result in the potential for increased stormwater runoff in that location but reduced runoff elsewhere. To address these potential impacts, the DGEIS states that site specific reviews of development proposals that have a potential to impact the aquifer should be mindful of methods to retain or detain stormwater, such as low-impact development techniques including bioretention basins and other effective surface water treatment facilities, to ensure there is no infiltration of stormwater directly into the aquifer.

Comment 46: The Conservation Advisory Committee recommends that the Town adopt a stronger aquifer ordinance to protect the aquifer before development in the proposed TND District begins. We also recommend that wherever domestic wells and septic systems are in use, parcel sizes throughout the Town should at a minimum meet average sizes recommended by Dutchess County Water and Wastewater Authority's septic density study.

Source: Brenda Cagle for the Town's Conservation Advisory Committee [correspondence 7/7/10, page 1; 7/7/10 hearing transcript, page 40-41;]

Response: The Chazen Companies' groundwater resource assessment, which it conducted for the Town in 2007, recommends providing moderate levels of aquifer protection for all areas in the Town (similar to the Town's current regulations), with a higher level of protection in particularly valuable aquifer areas and community water system wellfield wellhead protection areas. None of the higher risk land uses (such as underground storage tanks for

soluble chemicals) cited in the Chazen report would be permitted by the Proposed Action. Uses such as laboratories and light manufacturing would be permitted in the Office-Industrial Subdistrict south of Hannaford Drive, a portion of which would overlay the Zone 2 aquifer. However, these uses would be subject to existing regulations to control pollutants, including the Town's aquifer protection overlay regulations found in the Zoning Law § 143-47D(2), which prohibit high risk uses such as those referred to in the Chazen report. Any development within the Office-Industrial Subdistrict would be required to undergo site specific environmental reviews of impacts to the aquifer.

Aligning the Town's Zoning District densities with the Dutchess County Water and Wastewater Authority's septic density study⁸ is a worthwhile recommendation but it is not a part of the Proposed Action.

Comment 47: The TND District will negatively impact the aquifer with non-point pollution run-off. The present greenspaces in the area of the Hardscabble site inexpensively replenish the aquifer.

Source: Linda Keeling [6/10/10 correspondence, page 2]

Response: The DGEIS found that the Proposed Action would not result in any significant adverse environmental impacts to groundwater. The aquifer that underlies the Village of Red Hook is a very large deposit of sand and gravel that extends along both sides of Route 9 from Pitcher Lane south to the Town of Rhinebeck boundary. The Hardscabble site represents a very small portion of this area. It is currently zoned for commercial use. The creation of increased impervious surfaces on this site, either under the existing Zoning or under the proposed TND District, may result in the potential for increased stormwater runoff. To address these potential impacts, the DGEIS states that site specific reviews of development proposals that have a potential to impact the aquifer should be mindful of methods to retain or detain stormwater, such as low-impact development techniques including bioretention basins and other effective surface water treatment facilities, to ensure there is no infiltration of stormwater directly into the aquifer.

Comment 48: Additional structures and impervious roadways covering land in the Waterfront Conservation, Institutional and Historic Districts can negatively impact ground water recharge as they are at the headwaters of the Hudson River.

⁸ *Dutchess County Aquifer Recharge Rates & Sustainable Septic System Density Recommendations*, prepared for the Dutchess County Water and Wastewater Authority by The Chasen Companies, April 2006.

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: As shown in the Build-Out Analysis in Appendix F of the DGEIS, there would be a modest reduction in potential build-out in the referenced districts as a result of the Proposed Action, from approximately 88 dwelling units under the current Zoning to approximately 61 dwelling units under the proposed amendments (see Table 1 and Table 2e). No adverse impacts to ground water or surface water resources would occur as a result of this reduction in density.

Comment 49: The engineer's 2007 report was not included so the public could analyze his data.

Source: Save Our Town Committee [7/14/10 correspondence, page 1]

Response: The Chazen Companies, January 4, 2007 report is included in Appendix G of the DGEIS.

b. Surface Water

No comments received.

C. Terrestrial and Aquatic Ecology

a. Flora and Fauna

No comments received.

b. Wetlands

No comments received.

D. Transportation

Comment 50: The Proposed Action is very good at addressing quality of life issues by encouraging development where people can walk or bicycle and not have to drive everywhere. I think it's an excellent plan.

Source: Sheryl Griffith [6/10/10 hearing transcript, page 29-30]

Response: Comment noted.

Comment 51: I think development should be limited to minimize traffic impacts and I commend the people who have worked on this proposal.

Source: Susan Mora [6/10/10 hearing transcript, page 47]

Response: Comment noted.

Comment 52: I don't see how this is going to reduce or stop traffic.

Source: Richard Biezynski [6/10/10 hearing transcript, page 57]

Response: Transportation impacts are discussed in Chapter III of the DGEIS. As noted in that analysis, the Proposed Action would reduce the residential build-out of the Town from an estimated 3,588 new single family dwelling units permitted under the current Zoning to an estimated 1,388 new dwelling units permitted under the proposed Zoning. The reduction in the residential build-out means that the Proposed Action would generate approximately 64% less traffic than would be permitted under the current Zoning. The proposed TND District would include walkable residential neighborhoods with sidewalks, short blocks, and interconnected streets. Vehicle miles travelled would be reduced by locating residential neighborhoods within easy walking distance of small-scale commercial development serving local shopping and service needs. See response to Comment 53 below.

Comment 53: Increased traffic will degrade air quality and cause traffic congestion. No recent traffic studies have been conducted to measure the crowded Route 9 roadway. Impacts of traffic on the village have to be looked at.

Source: Linda Keeling [6/10/10 correspondence, page 1; Ken Migliorelli 6/10/10 hearing transcript, page 58]

Response: As discussed above, the Proposed Action would reduce potential traffic impacts by 64% over the existing Zoning. Traffic impacts would be further minimized through the creation of mixed-use neighborhoods and re-establishing pedestrianism as a primary form of mobility in the proposed TND District. The creation of compact walkable neighborhoods in close proximity to the shopping district would reduce vehicle miles travelled, which in turn would minimize impacts on traffic and air quality. A recent case study conducted in Atlanta found that the carbon footprint of a family in a low density suburban neighborhood is 40% greater than the footprint of a family in a traditional neighborhood, and 95% of this difference is due to transportation.⁹

As shown in Table III-10 in the DGEIS, the annual average daily traffic on US Route 9 south of the Village of Red Hook in 2008 was 9,550 vehicles.

⁹ Cited by Beth Osborne, US Department of Transportation Deputy Assistant Secretary for Policy, "Smart Growth: The HUD-DOT-EPA Partnership for Sustainable Communities" conference, Washington DC, September 8, 2010.

As noted in *Place Making, Developing Town Centers* (by Charles Bohl, 2002), traffic flow on an ideal Main Street is 16,000 to 20,000 average daily trips (Bohl, page 290). The Route 9 corridor is thus currently functioning at approximately half the ideal capacity for a Main Street commercial area.

The area immediately south of the Village of Red Hook on US Route 9 is an appropriate location for permitting increased residential and commercial development since this road, which serves as the primary corridor for travel within the community, has the capacity to accommodate additional growth. It is also located on the LOOP bus route, and use of public transit would further reduce potential impacts of automobile traffic resulting from development in this area. Finally, the Town-planned connector road running approximately one block east of US Route 9 will alleviate traffic on Route 9 and at the Route 9/Route 199 intersection without diverting traffic too far from the business district. The grid pattern of roads would diffuse most congestion by enabling traffic to take alternative routes without detracting from the vitality of the TND Commercial Center.

As discussed in the DGEIS, a project specific Traffic Impact Study assessing existing and projected traffic flow, operating conditions, and specific mitigation measures, should be required of any project in the Town when the Planning Board determines the project may have a potential impact on traffic. Generally, a comprehensive traffic impact analysis should be completed whenever proposed development is expected to generate 100 or more new inbound or outbound trips during the peak hours (the ITE's recommended practice). For example, developments containing about 100 single-family homes, or approximately 15,000 square feet of retail would be expected to generate this level of traffic and hence, require a complete traffic analysis. The DGEIS incorrectly referred to "150 single-family homes" in the previous sentence, and is hereby corrected.

Comment 54: By adopting the amendments, we can minimize emissions that contribute to global warming by locating development where alternatives to driving are possible.

Source: Robert McKeon [6/10/10 hearing transcript, page 56]

Response: Comment noted.

Comment 55: The Centers and Greenspaces Plan will have positive environmental impacts. The estimated decrease in build out potential under the proposed amendments will result in approximately 22,000 fewer vehicle trips per day than the current zoning. The Traditional Neighborhood District uses smart

growth techniques to encourage a walkable, vibrant neighborhood where goods and services are nearby rather than the sprawl type of development the current zoning encourages.

Source: Brenda Cagle for the Town's Conservation Advisory Committee [7/7/10 hearing transcript, page 40 and 7/7/10 correspondence, page 1]

Response: Comment noted.

Comment 56: No Traffic Study has been submitted. How can one believe that the addition of 600 dwellings will have no effect on traffic on Route 9?

Source: Save Our Town Committee [7/14/10 correspondence, page 1]

Response: The Proposed Action is not a development project but a set of amendments to the Town's current regulations. No dwelling units are proposed as part of this action. See discussion of traffic in response to Comments 52 and 53 above.

E. Community Services and Infrastructure

a. Emergency Service Providers

Comment 57: The TND District will have negative impacts on the fire and police departments, which will be required to buy more equipment to service an increased population and new structures, which will result in higher taxes. A demographic analysis was not considered when presenting this building development plan.

Source: Linda Keeling [6/10/10 correspondence, page 2]

Response: The Proposed Action is not a development project but a set of amendments to the Town's current regulations. The DGEIS found that build-out under the existing Zoning Law would result in the need for approximately 22 new police officers and 18 new fire fighters. In comparison, build-out under the Proposed Action reveals a significant difference, with the need for only 8 new police officers and 7 new fire fighters required. The reduction in future population under the Proposed Action is accompanied by a reduction in the need for emergency service providers, a beneficial impact on community services and the tax base.

b. Utilities

No comments received.

c. Water and Wastewater

Comment 58: The Intermunicipal Task Force misinformed us that the sewer district was there to protect the aquifer but, in truth, it's included in the Plan to promote land density for potential developers, benefiting selected landowners.

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: A municipal sewer system is not proposed as part of this action. As stated in the DGEIS, the Dutchess County Water and Wastewater Authority and Dutchess County, at the request of the Town and Village of Red Hook, are in the process of developing a sewer district to be located primarily in the Village, with a portion along Route 9 in the Town. That project is subject to a separate SEQR review and the decisions are independent of one another.

d. Public Schools

Comment 59: Development that's controlled rather than allowed to have free reign is going to be much better for Red Hook and the people who value the education of their children because it will prevent overcrowded schools.

Source: Susan Mora [6/10/10 hearing transcript, page 47-48]

Response: Comment noted.

Comment 60: The plan provides for less development, lower need for services, school and otherwise, and targeted resource protection.

Source: Robert McKeon [6/10/10 hearing transcript, page 54]

Response: Comment noted.

Comment 61: The school district's report projects that by 2016 or 2017, the school population will be approximately 1,500 students, down from 2,300 now.

Source: John Douglas [6/10/10 hearing transcript, page 65-66]

Response: As noted in the Fiscal Impact Analysis prepared for the Town by Fairweather Consulting (April 19, 2010; see Appendix H of the DGEIS page 2), the Fiscal Impact Analysis looks at population added by new residents as may be permitted under different Zoning scenarios, while the school district's population projection studies endogenous growth of the existing population only (resulting from births and deaths). Since the Fiscal

Impact Analysis is analyzing impacts of development that can occur under different Zoning scenarios, it did not consider the school district report.

Comment 62: The plan to build 600 homes at three different locations, 200 in each location, or in two different locations, 300 in each, will have adverse impacts on the school district where you have 1.4 children per household. I heard there was going to be 900 homes.

Source: John Douglas [6/10/10 hearing transcript, page 32; 7/7/10 hearing transcript, page 48]; Richard Biezynski [6/10/10 hearing transcript, page 56]; Save Our Town Committee [7/14/10 correspondence, page 1]

Response: The Proposed Action is not a development project but a set of amendments to the Town's current regulations. No dwelling units are proposed as part of this action. As noted in the DGEIS, the amendments to the Zoning Law proposed as part of this action would result in the potential for significantly fewer dwelling units than are currently permitted under the Town's existing Zoning. Reducing the total future build-out would result in smaller increases to the school budget as compared to the existing Zoning, as discussed in detail in the DGEIS and in the Fiscal Impact Analysis in Appendix H. The estimate of new school age children in the Build-Out Analysis (Appendix F of the DGEIS, page 15) was based upon multipliers provided by the Rutgers University Center for Urban Policy Research, which were derived from US Census data, and ranges from 0.3 to 1.58 school age children per dwelling unit depending on dwelling unit type and size.

Comment 63: The current zoning law has contributed to slow but steady growth. The new proposal will allow hundreds of homes to be approved at one time, allowing for a very rapid build-out—"too much, too fast."

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: In the last 33 years, 1,032 residential building permits have been issued in the Town of Red Hook (all for single family detached dwellings with the exception of 30 for townhouses).¹⁰ Between 1990 and 2008, the population of the Town of Red Hook (excluding the two Villages) increased from 6,736 residents to 8,482 residents, a 26 percent increase. This growth is the result of a number of factors, including market conditions. The number of homes that are built at one time under any Zoning scenario is influenced in large part by market conditions. For example, for the last 30 years the Village of Red Hook Zoning Law has included provisions for a permitted residential density of 4 dwelling units per acre (i.e., ¼ acre lots) similar to the proposed

¹⁰ Information provided by Town of Red Hook Zoning Enforcement Officer Robert Fennell.

TND District. However, this has not resulted in the construction of hundreds of homes at one time.

To adjust for market conditions and to moderate growth, the Proposed Zoning includes a requirement for phasing all residential development in the TND District. In determining how a project should be phased, the Planning Board would be guided by a number of factors, including “the ability of the Town to adequately serve the proposed development with streets, utilities, drainage, educational and protective services” (§ 143-49.1F(4)(d)(1)). The phasing requirement would allow the Town to accommodate a reasonable amount of new residential growth while maintaining high quality services [§ 143-49.1F(4)]. In contrast, the current Zoning does not include a phasing provision.

F. Cultural and Historic Resources

No comments received.

G. Community Character

Comment 64: The proposed amendments respect and reinforce the rural traditions of the Town and the Villages of Red Hook and Tivoli. By providing convenient and safe pedestrian access from neighborhoods located closer to stores and services, traditional neighborhood development reduces dependence on driving, increases the customer base for centrally located businesses, provides sufficient consumers to support central services, reduces the costs of services, and protects the working landscape from incompatible development.

Source: Dutchess County Department of Planning and Development [7/7/10 correspondence, page 1]

Response: Comment noted.

Comment 65: The purpose and intent of the TND District is clearly stated, and the design standards and illustrations will result in the type of development prescribed in the Town’s *Comprehensive Plan*. It will create a seamless extension of the Village of Red Hook that maintains the feel of traditional, pedestrian-friendly main streets with buildings close to the sidewalk, parking on streets and behind buildings, and reduced setbacks.

Source: Jeffrey Anzevino, Scenic Hudson [6/10/10 hearing transcript, page 37]

Response: Comment noted.

Comment 66: The TND District will compete with the Village of Red Hook and create a ghost town. The district is not consistent with the Dutchess County Greenway concept.

Source: Linda Keeling [6/10/10 correspondence, page 2]; Save Our Town Committee [7/14/2010 correspondence, page 1]

Response: Lands in the proposed TND Commercial Center Subdistrict are currently zoned for commercial uses. Based on the area and bulk requirements of the current Zoning, which requires deep setbacks and a large amount of parking, these lands have already been partially developed as a commercial strip and could be further developed in highway strip commercial configuration with a shopping mall or big-box type commercial use. Although land use within the Villages of Red Hook and Tivoli are not included in the Proposed Action, the proposed Centers and Greenspaces Plan was prepared by the Intermunicipal Task Force of the Town of Red Hook and the Villages of Red Hook and Tivoli, and officials and residents in all three municipalities were directly involved in the extensive public planning process in preparation of the Plan and the Proposed Action. Representatives from the Village of Red Hook who served on the Task Force were concerned that the Town's **existing** Zoning could negatively impact the Village of Red Hook by allowing for a large shopping center or big-box commercial development. The Town consulted with officials from the Village of Red Hook to ensure that the building sizes and types of commercial uses in the proposed Commercial Center Subdistrict of the TND District would not create competition that would potentially result in blight in the Village's central business district.

The Town's adopted *Comprehensive Plan* discourages highway strip commercial development, such as could currently occur in the area south of the Village of Red Hook. The *Comprehensive Plan* recommends that the Village of Red Hook be maintained as the primary commercial center of the community, with limited commercial expansion in carefully-defined areas outside the center, such as immediately adjacent to the Village of Red Hook. It also recommends small retail and service businesses consistent with the day-to-day needs of the community. The Proposed Action is consistent with these recommendations. Moreover, the proposed TND District is consistent with the design recommendations of the *Greenway Guides* and was developed in consultation with a design professional at the Dutchess County Department of Planning and Development, who prepared the illustrative sketches of the proposed TND District. The County Planning Department has recently developed a new *Greenway*

Guide entitled “Centers and Greenspaces,” which uses Red Hook’s Proposed Action as a model for other Dutchess County communities to emulate.

Comment 67: The TND District will result a New York City brownstone-type community.

Source: Linda Keeling [6/10/10 correspondence, page 2]

Response: The TND District would allow for development at levels that match the prevailing pattern of development within the historic neighborhoods of the Village of Red Hook. The Residential Neighborhood Subdistrict of the proposed TND District would have a base zoning of one (1) dwelling unit per net acre. A developer could increase building potential above the base zoning, in keeping with the existing character of the Village of Red Hook, by contributing to a dedicated greenspace fund through incentive zoning. Building potential in the TND can only be increased to a maximum of 4 dwelling units per net acre for TND houses, or 6 dwelling units per net acre for all other housing types (cottages, townhouses, apartments etc.). This is consistent with the existing character of historic residential neighborhoods in the Village of Red Hook (and is actually less than what is recommended for a traditional neighborhood where up to 12 dwelling units per acre is recommended). In contrast, brownstone neighborhoods in New York City have a permitted density of 25 dwelling units per acre¹¹ and districts that allow apartment buildings permit up to 581 dwelling units per acre.

The TND District would permit a compact neighborhood where residential buildings are in close proximity to each other and to important retail, service, and cultural establishments within the Commercial Center and the Village. This is a planning concept that is based on traditional small town development principles and would enhance Red Hook’s existing small town, rural community character.

Comment 68: The TND District will create neighborhoods that aren’t like Red Hook, with small lots, houses jammed up against each other, and parking lots because you won’t be able to park in front of your house.

Source: John Douglas [7/7/10 hearing transcript, page 47]

¹¹ See the R4B Residence District, which is intended to preserve and produce rowhouses that are typical of many of New York City’s residential neighborhoods. Maximum height in the R4B District is 24 feet, and minimum lot size is 1,700 sq. ft. per dwelling unit (25 dwelling units per acre). Residential density in districts that permit apartment buildings in New York City is up to 581 dwelling units per acre.

Response: As discussed above, the TND District would permit development at levels that match the prevailing pattern of development within the historic neighborhoods of the Village of Red Hook. The purpose of the Proposed Action is to enhance the Town's existing small town character, with close-knit villages surrounded by rural countryside ("centers and greenspaces"), in keeping with traditional rural land use patterns of the Hudson Valley and in conformance with the Town's existing *Comprehensive Plan* and *Open Space Plan*, rather than the sprawl-type development as currently allowed. The Town's historic settlement pattern was studied and is the basis for the Proposed Action. Off-street parking would be required on each individual lot (in accordance with the parking schedule in § 143-49.1L of the proposed Local Law), and informal parking would be permitted on the street in front of houses, as is currently allowed in the Village of Red Hook.

Comment 69: The TND District will concentrate and take over what little greenspaces and open farmland remain in the southern gateway to the town.

Source: Linda Keeling [6/10/10 correspondence, page 3]

Response: The lands proposed to be included in the TND District currently permit commercial and/or residential development. These lands have been identified in the Town's adopted *Comprehensive Plan* as an area where new development should be directed. The Town's adopted *Comprehensive Plan* recommends that the Town provide incentives for new development to locate within or adjacent to existing centers in the community while discouraging a land use pattern that uniformly disperses development throughout the Town (known as "sprawl"). Specifically, the *Comprehensive Plan* recommends that building potential be transferred from environmentally sensitive lands (especially important agricultural lands) to prospective higher density areas around the Village of Red Hook where development is preferred and central water and sewer is feasible. As noted in the DGEIS, the Proposed Action would avoid potential adverse environmental impacts to the Town's rural, small-town character by directing new development towards existing centers, designing that development as walkable village-scale neighborhoods consistent with the existing historic character of the Village of Red Hook, and protecting agricultural lands and other important natural resources.

The proposed TND Office-Industrial Subdistrict would require a minimum 200 foot setback and landscaped buffer from US Route 9 to effectively screen structures and parking on a year-round basis from views from Route 9 through the preservation of existing vegetation and landforms, and by

substantial new plantings. These measures are intended to ensure that the greenbelt south of the TND is maintained

Comment 70: The plan promotes Route 9 strip development by adding additional businesses south of the Village of Red Hook. This is in direct violation of the Greenway's Smart Growth philosophy.

Source: Save Our Town Committee [7/14/10 correspondence, page 3]

Response: The lands proposed to be included in the TND Commercial Center Subdistrict are currently Zoned to permit strip commercial development. Based on the area and bulk requirements of the current Zoning, which requires deep setbacks and a large amount of parking, these lands have already been partially developed as a commercial strip and could be further developed in highway strip commercial configuration with a shopping mall or big-box type commercial use. As discussed in response to Comment 66 above, the Town's adopted *Comprehensive Plan* discourages highway strip commercial development, such as may currently occur under the Town's existing Zoning Law in the area south of the Village of Red Hook. In contrast, the Proposed Action would allow for the redevelopment of this area into a traditional, walkable Main Street more in keeping with small town character, as illustrated in Figure III-11 of the DGEIS.

Comment 71: The Task Force should have prepared a plan to dissolve the village governments to reduce duplication of services and reduce taxes.

Source: Linda Keeling [6/10/10 correspondence, page 2]

Response: The Intermunicipal Task Force was not charged with an analysis of dissolution of the Village governments. Officials from the Town and the two Villages are currently discussing shared services.

Comment 72: There's nothing more expensive than a house on two or three or five acres, and that's basically what has been built in the Hudson Valley. Many of us empty nesters no longer need as much space, and the Proposed Action goes a long way to provide additional smaller and more affordable homes. I support the proposal.

Source: Vicky Perry [6/10/10 hearing transcript, page 40]

Response: Comment noted. The proposed TND District would result in smaller homes on smaller lots, and also more more affordable housing types (such as multi-family apartments, two-family etc.) since it includes a requirement that large developments must include a minimum of at least three different dwelling unit types, with no one type comprising less than 20% of the total

units proposed. The type of housing that the TND District would permit appeals to empty nesters and senior citizens who want to downsize and live within walking distance of shops and services.

Comment 73: Red Hook has no affordable housing, no multifamily housing. There are serious questions as to whether or not this law is in furtherance of fair housing. The Tri-County Housing Study said by 2020 you need to provide almost 1,500 housing units that are affordable. You're proposing 1,400 new units under your code. There is a big problem here.

Source: Neil Alexander [6/10/10 hearing transcript, page 60 to 62]

Response: The *Three County Regional Housing Needs Assessment* prepared by the Planning Departments of Dutchess, Orange and Ulster Counties of New York (February 2009) determined that the "to be built" targets to address the affordability gap in the Town of Red Hook is the construction of 230 owner-occupied units and 159 rental units (for a total of 389 units) by the year 2020 (see Appendix F of this FGEIS). It should be noted that these figures include the Town's two villages, the Village of Red Hook and the Village of Tivoli.

According to Ann Saylor, the Dutchess County Housing Coordinator, in estimating the number of units out of the Town's total that the Villages should provide, the County will, at a minimum, use an allocation based on the Villages' current population as a percentage of the Town's, but will likely require a higher percentage of units in the Villages since factors such as smaller lots and proximity to shops and services (which reduces transportation costs) make housing generally more affordable in the Villages.¹²

The population of the two Villages in July 2009 totals 3,126 persons,¹³ or 27% of the Town's population (including the two villages) of 11,597 persons. Thus, using the minimum allocation as a basis, the unincorporated area of the Town (outside its two villages) would be responsible for 73% of the 389 "to be built" target units, or 284 dwellings. Again, this should be considered the maximum "to be built" target for the unincorporated Town as the Village allocations may be increased based on other factors, as discussed above. Based on these factors, the Dutchess County Housing Coordinator

¹² Conversation with Ann Saylor, October 26, 2010.

¹³ Consisting of 1,994 persons in the Village of Red Hook and 1,132 persons in the Village of Tivoli. Source: U.S. Bureau of the Census. See Appendix D of this FGEIS.

estimates that the unincorporated Town of Red Hook will be responsible for 275 dwellings.

The Proposed Zoning would require that larger projects in the TND District (those with more than 10 dwellings) consist of a minimum of three different housing types (such as houses, duplexes, multi-family apartments, townhouses, etc.), with no one type comprising less than 20% of the total units proposed. The Build-Out Analysis conducted for the Town by GREENPLAN in March 2010 determined that the TND District could accommodate an estimated 297 dwellings. Based on the TND provisions, up to 60% of these units (178 units) could be multi-family apartments as-of-right. Another 20% (59 units) could be two-family dwellings as-of-right. Thus the TND District would permit construction of approximately 237 affordable dwelling unit types as-of-right, within range of the “to be built” 275 units recommended by the *Three County Regional Housing Needs Assessment*. This does not include ancillary or accessory dwelling units (a dwelling unit not greater than 600 square feet) which could also be built on residential lots in the TND District and do not count towards permitted density per acre.

The proposed zoning is inclusionary rather than exclusionary, and it represents a significant improvement over the current Zoning in providing for affordable housing. As discussed above, the proposed TND District would require that larger projects consist of a minimum of three different housing types; these amendments would allow for increased development of more affordable multi-family apartments and two-family dwelling units. Moreover, the amendments would permit construction of these more affordable housing types **as-of-right**, without the need for a special use permit as is currently required by the Town’s Zoning Law. This applies not only to two-family and multi-family dwellings in the TND District but to accessory or “ancillary” dwellings as well.¹⁴ Thus, the TND District would increase affordable housing opportunities in the Town.

The provisions would ensure that a full range of housing opportunities, including opportunities for individuals with low and moderate incomes, would be provided in the Town. The provisions would address any potential adverse impacts on housing affordability resulting from the decreased permitted density proposed in certain Zoning Districts in the Town. Single-family development on one- three- or five-acre lots is not a successful strategy for achieving affordable housing units. By allowing for

¹⁴ Accessory apartments are currently allowed by the Town’s zoning, but only subject to issuance of a Special Use Permit.

village-scale development adjacent to existing settled areas, development levels in areas outside these centers can be reduced without adverse impacts on housing affordability.

The traditional design of the TND District would also contribute to housing affordability. By encouraging development on small lots adjacent to the Village (rather than in low density development known as “sprawl”), infrastructure costs per dwelling unit is reduced and housing is made more affordable for potential owners and renters. Transportation costs would also be reduced since residents, living within walking distance of shops and services in the TND District, don’t have to drive if they don’t want to. According to the US Department of Housing and Urban Development, “the average American household now spends 34% of their annual income on housing and 18% on transportation—the combined total of 52% of their budgets is wrapped up in these two largest expenses. . . Households in a centrally located neighborhood with access to mass transit only spend 34% of their income on the same costs.”¹⁵ Decreased transportation costs makes housing more affordable.

The Town’s adopted *Comprehensive Plan* recommends encouraging a range of housing types in or adjacent to existing centers to meet the housing needs of Town residents with a range of income levels, ages, household sizes and housing preferences. It also recommends concentrating higher-density residential development in areas that can be most efficiently served by existing and prospective municipal or municipally-approved central water and/or sanitary sewage facilities, such as the Village of Red Hook and the area immediately to the south. The proposed TND District is consistent with these recommendations.

Comment 74: We should have McMansions that pay high taxes so that our taxes are cheaper.

Source: Richard Biezynski [6/10/10 hearing transcript, page 63-64]

Response: While larger, more expensive housing may generate higher tax revenues, municipalities have an obligation to provide a range of housing types for a variety of incomes and residential preferences. Moreover, “McMansions” have been associated with significant adverse environmental impacts, such as consuming farmland by dividing land into lots that are too large to mow but too small to farm, and by perpetuating reliance on motor vehicles by locating new residences too far from shops and services. This type of

¹⁵ “The Affordability Index: A New Tool for Measuring the True Affordability of a Housing Choice” www.brookings.edu/reports/2006/01_affordability_index.aspx.

development is inconsistent with the *Greenway Guides* and the Town's adopted *Comprehensive Plan*.

H. Economic and Fiscal Considerations

Comment 75: The plan fails to adequately address the level of our taxes and the rate which our taxes have increased. One solution that's available to us is to expand suitable commercial development.

Source: Doug Moat [6/10/10 hearing transcript, page 43-44]

Response: The Proposed Action would permit an increase in commercial development in the TND District, creating the potential for 140,000 square feet of new commercial development in the Commercial Center of the TND District, and an additional 180,000 square feet of hotel and light industrial uses in the Office-Industrial Subdistrict, as recommended by the Town's Economic Development Committee. It would also significantly reduce the number of new dwelling units that could be developed in the Town. By reducing the amount of potential residential development, increasing commercial opportunities, and preserving farmland, the Proposed Action would bring land uses in the Town into better balance, which would have beneficial impacts on tax revenues. As shown in the Fiscal Impact Analysis (Appendix H of the DGEIS), the Proposed Action would significantly diminish the future tax burden in comparison to the current Zoning by generating approximately \$7 million in additional tax revenues per annum over the current Zoning at build-out.

Comment 76: More commercial properties will not reduce our tax base. Ask anybody that lives in Westchester where there's a lot of commercial base how their taxes are.

Source: Richard Biezynski [6/10/10 hearing transcript, page 57]

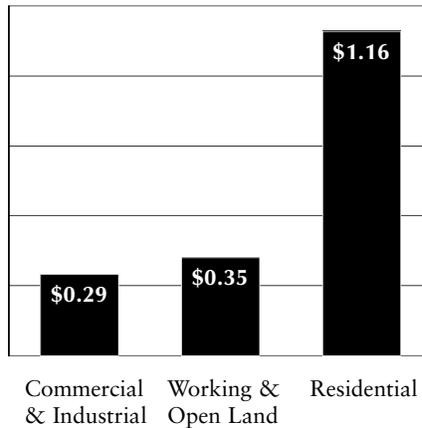
Response: See response to Comment 75 above. Increasing commercial development is not a panacea for taxes. For a stable tax base, it is important to have a balance of land uses, including agriculture. One purpose of the Proposed Action is to enhance the financially important, tax positive agricultural economy by protecting a critical mass of existing farmland. As can be seen in the two reports on the fiscal impacts of land uses in Appendix G of this FGEIS, open space uses such as agriculture generate more in public revenues than they use in public services, and are therefore tax positive for municipalities.

For more than 20 years, economists have been assessing the net fiscal impact to communities of developing agricultural lands. These “cost-of-community-services”¹⁶ studies weigh anticipated economic benefits from various forms of development against the cost of delivering infrastructure and services to the development, such as roads, schools, and fire and police protection. American Farmland Trust (AFT) developed the cost-of-community-services methodology, has conducted many of the studies, and continues to promote them. In its *Fact Sheet on Cost of Community Services Studies* (August 2010), AFT lists 151 cost-of-community-services studies completed in 26 states between 1989 and 2009 (see Appendix F of this FGEIS). Averaging the results of those studies reveals that for every dollar communities realized from residential development, they had to deliver \$1.16 in services. On average, lands developed for commercial or industrial use required communities to deliver only \$0.29 in services for every dollar realized. But keeping land in agriculture is also cost effective--farms, on average, demanded only \$0.35 in community services for each dollar realized (see Chart II-1).

The results show that delivering services to residential development almost always costs more than the community can expect to realize in taxes. The results also show that keeping the land in agriculture produces nearly as much net economic benefit to a community as commercial or industrial development. Conversely, converting farmland to residential uses can have adverse impacts on the tax base.

¹⁶ Costs-of-community-services studies are a subset of a much larger field known as fiscal impact analysis. A Fiscal Impact Analysis was conducted for the Proposed Action and is included in Appendix H of the DGEIS.

Median COCS Results



Median cost per dollar of revenue raised to provide public services to different land uses.

Chart II-1: Summary of Cost of Community Services Studies

Source: American Farmland Trust

Comment 77: The Fiscal Impact Study came out with a median price for homes of \$306,000. Our median family income is around \$47,000, but to buy that house for \$306,000 you have to be earning \$90,000 to \$100,000 a year. There's a big discrepancy between what people are earning and what they can buy. It also means people with a family income of \$47,000 are paying almost 12 percent of their income on real estate taxes.

Source: Paul Fredricks [6/10/10 hearing transcript, page 50 and pages 64-65; correspondence 7/18/10, page 2]

Response: To assess the impact of each zoning scenario on property tax revenues, the Fiscal Impact Analysis relies on estimates of the median value for single family homes in the study area (the unincorporated Town outside of the Villages), based on sales data from 2005 to 2010; this figure is \$306,565. However, the Fiscal Impact Analysis assumes that dwelling units developed in the TND District would be qualitatively different from typical development in the Town's unincorporated areas (for reasons discussed in response to Comment 73), and as such median values from the Village areas were used as a more appropriate proxy for the values of the TND District units. Thus, while single family units in the unincorporated area of the Town were assumed to have a median value of \$306,565, single family units in the TND District were estimated to have a median value of only \$240,291. Further, the Fiscal Impact Analysis estimates the median value of

townhouse units in the TND District at \$120,224, and the median value of duplex/multi-family apartment units at \$76,691 (see Table 6 in Appendix H of the DGEIS). The Proposed Action would have beneficial impacts on housing affordability by requiring the provision of a variety of housing types in the TND District, including more affordable types such as multifamily apartments, two-family units, smaller detached cottages, and ancillary dwelling units. See response to Comment 73.

Comment 78: The Town should ask Peter Fairweather to do a fiscal impact analysis of the proposal, especially what would be gained by the commercial growth. I know there's 320,000 square feet of commercial that would be allowed. What does that amount to in tax revenue or does it include apartments?

Source: Paul Fredricks [7/7/10 hearing transcript, page 36-37]

Response: Fairweather Consulting conducted the Fiscal Impact Analysis of the proposed Zoning amendments (April 19, 2010) that is included in Appendix H of the DGEIS. The analysis estimates that the 320,000 square feet of commercial development permitted in the proposed TND District would generate approximately \$56,230,140 in gross tax revenue annually (see Table 7 of Appendix H of the DGEIS). This does not include apartments, which were calculated separately with other residential uses.

Comment 79: What will happen to the value of homesites or vacant land of smaller parcels? Will the owners of parcels that may no longer be subdivided be able to receive a lower land assessment for tax relief? How will they make up the financial loss if they were considering this as a college or retirement fund? How will the shift in the tax burden be resolved or will it continually be from the pockets of the less affluent citizens of our community. Shouldn't the analysis have included a fiscal study of where we are now in terms of individual tax liability to where the alternatives are going to take us?

Source: Paul Fredericks [correspondence 7/18/10, page 2]

Response: Because the Proposed Action affects all residents of the Town of Red Hook, the examination of fiscal impacts considers the impacts to the Town as one entity. The Fiscal Impact Analysis (Appendix H of the DGEIS) analyzed the impacts to tax revenue of build-out under the current Zoning, the Proposed Action, and the nine (9) alternatives to the Proposed Action studied in the DGEIS. The analysis found that the Proposed Action would generate approximately \$7 million more in taxes annually than the current Zoning at build-out, and would thus be a significant improvement over the

current Zoning. A comparison of the fiscal impacts of the current Zoning, the Proposed Action, and the nine alternatives can be found in Chart IV-1 of the DGEIS.

Many factors influence the value of land, including the strength of the local and national agricultural and non-agricultural economy, the suitability of land for development compared with its suitability for agricultural use, proximity to transportation, infrastructure, and good schools and in some cases local land use laws. Farmland values differ considerably as these and other characteristics differ with each property. Furthermore, studies have found that impacts of zoning on land values is not as clear as often thought. Zoning measures that limit residential development appear more likely to impact farmland values on small parcels in rapidly developing metropolitan areas. However, even in these situations the impacts will differ depending on the intensity of development pressure and the scope of the change. By comparison, restrictive zoning measures likely have fewer impacts on larger farmland parcels in rural areas.¹⁷ There are only a handful of small parcels in the proposed AB District that would not be permitted to be further subdivided; of the 145 parcels in the district, only 6 are less than 6 acres in size and many of these are part of larger land holdings.

In addition, minimum lot size requirements of zoning and its potential effect on speculative development should be put into proper perspective. Lot size requirements must be considered minimums. Section 277(3) of New York State Town Law mandates that plats, in order to be approved, “at least” comply with the requirements of zoning. The statutory requirement is expressed in terms of compliance with zoning minimums or greater requirements by reason of the phrase “at least.” The New York State Court of Appeals has upheld the power of local planning authorities, when reviewing an application for subdivision, to impose higher planning and design standards than are otherwise provided in the local regulations (than the minimum standards) when there exists good reason in the nature of the land. On this basis, it would be highly speculative to attempt to determine the economic impact upon any one individual property owner since the “yield” or number of actual lots that may be subdivided from any one lot of record could vary significantly according to the above conditions.

The impact on a particular landowner resulting from implementation of the Proposed Action will depend on whether the landowner is holding land in

¹⁷ American Farmland Trust, “What About My Equity? The Impacts of Zoning on Farm Businesses,” October 1, 2004, page 4.

anticipation of development, or resides on his or her land with no present intention to develop it. The comparison of two density alternatives would depend on the market demand for lots of a particular size, which may vary with timing, general economic conditions, farmland values, property values in the community, and other factors discussed above.

Comment 80: The Fiscal Impact Analysis is flawed because it says “Since the current zoning includes no increase in commercial development (as included in the proposed TND), no commercial development is included in the analysis of this alternative.” This is not true since nearly all of the proposed TND is almost a mirror image of the current B1 (Business) District and the proposed Office-Industrial Subdistrict with use limitations is already allowed as the RD3/Light Industrial Zone. Therefore the claimed 320,000 square feet of new commercial development is presently allowed, but was not calculated in the analysis, which affects all of the comparisons.

Source: Paul Fredricks [7/18/10 correspondence, page 1]

Response: The potential increase of 140,000 square feet of commercial space in the Commercial Center of the TND District, and 180,000 square feet of hotel and light industrial uses in the Office-Industrial Subdistrict are increases above what is currently permitted on these lands under the existing Zoning.

Comment 81: The fiscal impact of the Proposed Action is a dramatic improvement, over the current Zoning, a difference of approximately \$7 million in taxes per year, resulting from less of an increase in school children and more commercial opportunities. This doesn't even take into account additional school construction costs that might result from the current Zoning vs. the proposed amendments. The Proposed Action would allow us to stay within our current school infrastructure. I support the proposal.

Source: Vicky Perry [6/10/10 hearing transcript, page 39-40]

Response: Comment noted.

Comment 82: Farms have a government subsidized tax rate. It is the homeowner who picks up the decrease in tax revenue.

Source: Save Our Town Committee [7/14/10 correspondence, page 1]

Response: The State Legislature enacted the New York State Agricultural Districts Law in 1971 to protect and promote the availability of land for farming purposes. The Agricultural Districts Law provides for reduced property tax

bills for land in agricultural production by limiting the assessment of such land to its prescribed agricultural assessment value. This allows farm land to be assessed based on its agricultural value, rather than its full market (i.e., non-farm development) value. Owners whose land satisfies the eligibility requirements may apply for an agricultural assessment. Agricultural assessment applies only to land used in agricultural production; the program does not apply to farm buildings, residences, and other improvements.

As noted in response to Comment 76, open space uses such as agriculture generate more in public revenues than they use in public services, and are therefore tax positive for municipalities. Cost of community services have been performed through out the Nation, including one here in Red Hook, and these studies have consistently demonstrated that agricultural uses generate more tax dollars for the community than they demand in services, while most residential land uses demand more in municipal services than they provide in taxes. Thus, the impact of agricultural land on tax revenues is similar to that of other commercial and industrial land uses. This is true even when the land is assessed at its current, agricultural use.

Comment 83: Landowners with more than 10 acres have been given a tax break if they promise not to develop their land. Those were not figured into the calculations.

Source: Save Our Town Committee [7/14/10 correspondence, page 2]

Response: Since 2005 when the Town Board adopted Chapter 56 of the Town Code (“Conservation Easements”), only three landowners representing 74.6 acres have donated conservation easements under this program. This has a negligible impact on the Build-Out and Fiscal Impact Analysis.

Comment 84: Landowners receiving a tax advantage who convert their property’s green space or farm to commercial use in the Route 9 commercial strip must pay back their former savings. The local government must ensure that the taxes are paid back.

Source: Save Our Town Committee [7/14/10 correspondence, page 3]

Response: This is true and is an integral part of the agricultural and forestry programs of the State, which are designed to encourage these economically viable open space uses. Any farmland that has received an agricultural assessment is encumbered with an obligation to remain in agricultural use for a period of five years (or eight years if not within a NYS certified agricultural district) or be subject to a payment for conversion to non-agricultural use.

The assessor determines whether a conversion has occurred on the basis of the facts of each case. Payments for the conversion of agricultural land to a nonagricultural use are added to the taxes levied upon the land so converted.

COMMENTS ON CHAPTER IV OF THE DGEIS

Comment 85: Alternative E permits less density in the AB District, with a base zoning of one unit per 20 acres without a sliding scale, as originally proposed by the Intermunicipal Task Force, with a sliding scale applied to parcels smaller than 40 acres. This is one of the alternatives that we requested that the GEIS include.

Source: Dutchess County Department of Planning and Development [6/18/10 correspondence, page 1]

Response: Comment noted.

Comment 86: Alternative H permits greater building potential with flexible per-acre densities in the TND District, in order to provide smaller, more traditionally proportioned lots and to increase the number of potential customers for sewer infrastructure, lowering the per-unit costs for all customers. This is one of the alternatives that we requested that the GEIS include.

Source: Dutchess County Department of Planning and Development [6/18/10 correspondence, page 1]

Response: Comment noted.

COMMENTS ON CHAPTER V OF THE DGEIS

No comments received.

COMMENTS ON CHAPTER VI OF THE DGEIS

No comments received.

COMMENTS ON CHAPTER VII OF THE DGEIS

No comments received.

COMMENTS ON CHAPTER VIII OF THE DGEIS

No comments received.

CHAPTER III: DGEIS MODIFICATIONS

This section of the FGEIS describes modifications to the DGEIS. Three modifications to the DGEIS are made, as follows:

1. The FGEIS clarifies that the Intermunicipal Task Force was not appointed by the Town Board to act as a Special Board to prepare amendments to the Town's *Comprehensive Plan* pursuant to New York State Town Law §272-a.2(c). Thus, although the Intermunicipal Task Force suggested some draft amendments to the *Comprehensive Plan* to accompany the amendments to the Zoning and Subdivision laws, the amendments to the *Comprehensive Plan* were actually prepared by the Town Board, which held two public hearings on the *Comprehensive Plan* amendments as required by New York State Town Law.
2. There was a typographical in error in the DGEIS, which cites the 2008 population of the unincorporated area of the Town (i.e., the Town exclusive of the two Villages) as 8,455 persons. According to the US Census Bureau, the Town's 2008 population was actually 8,482 persons, a difference of 27 persons. The FGEIS corrects this error.
3. A second typographical error in the DGEIS appears in the discussion of the Institute of Transportation (ITE)'s recommended practice for a comprehensive traffic impact analysis. The DGEIS referred to a proposed development containing about 150 single-family homes or approximately 15,000 square feet of retail; the correct figure is 100 single-family homes. The FGEIS corrects this error.